

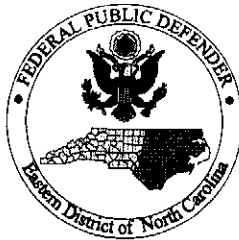
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August 18, 2009

Mr. Michael Montemarano
5695 Main Street, Suite 201
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Re: Martin Appeal

Dear Michael:

I wanted to let you know about recent developments in my office which will affect my work in Lavon Dobie's appeal.

Recently, the Supreme Court granted the government's petition for certiorari in a case we handled, *United States v. Comstock*. As you might know, in *Comstock*, the Fourth Circuit found a new law providing for the indefinite civil commitment of sexually dangerous individuals to be unconstitutional. This is our office's first Supreme Court case and it is a potential blockbuster. One Supreme Court practitioner actually told me this could be the most important case regarding the scope of Congressional power since *McCullough v. Maryland*. Even if this is an exaggeration, *Comstock* is by any measure a huge case.

Tom McNamara, my boss, has put me in charge of this litigation. I will be arguing the case and heading the team preparing the brief. A week or so ago, after discussions with the Solicitor General's Office, we finalized our briefing schedule. The government's brief is due on August 28, 2009. Our brief will then be due on October 28, 2009. The briefs of our amici, which we are currently in the process of organizing, will be due seven days after that. We do not yet have a firm oral argument date but have been informed that the argument will probably be in January.

We have been in consultation with a number of experienced Supreme Court litigators and they have all told us that handling a Supreme Court case is a full time job and, especially until the briefs are filed, we will have little or no time to work on anything else. Even after the briefs are done the preparation for oral argument, which will involve a number of out-of-town moot courts, will consume a substantial amount of time.

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All this of course means that for the next couple of months at least, I will be extremely limited in my ability to do any meaningful work on Dobie's case, which in any normal year would be the biggest, most complicated case on my docket. Given this reality, I see no option other than to ask the Fourth Circuit for more time for this appeal. It is far too complex to shift to another lawyer at this stage of the game.

The Court has been very helpful up to this point and it seems to recognize the unique challenges this case presents so I really hope it will be able to work with us regarding this latest complication. If you don't mind, would you please speak to the case manager, explain our situation, and see what accommodations the Court could make? Given all that is going on, I simply see no way that I can prepare Dobie's appeal without a fairly substantial extension of the current briefing deadline.

Thanks as always for all your help. I know from experience that being lead counsel in a case as massive and sprawling as this one is a thankless task but you are doing an absolutely fantastic job. Please let me know if you or the Court need further information.

Look forward to hearing from you soon.

Sincerely,

THOMAS P. McNAMARA
Federal Public Defender

/s/ Alan DuBois

G. ALAN DuBOIS
Assistant Federal Public Defender